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7590 SAWYER LAW GROUP P.O. Box 51418 Palo Alto, CA 94303			EXAMINER FLEURANTIN, JEAN B	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/784,865
Filing Date: February 15, 2001
Appellant(s): CHING ET AL.

Erin C. Ming
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/10/06 appealing from the Office action mailed 05/04/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5758150	Bell	5-1998
6256673	Gayman	7-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,758,150 issued to Bell ("Bell") in view of U.S. Pat. No. 6,256,673 issued to Gayman ("Gayman").

As per claims 1 and 10, Bell discloses "a method of synchronizing files between a central site and a plurality of remote sites" (as a database synchronization system indicated generally at, a plurality of remote database system is connected via communications line to a central database stored on a central; see col. 3, lines 15-19) comprising the steps of:

(b) "reporting which of the files are missing by each of the plurality of remote sites to the central site" (as a database on a remote computer is corrupted during a database transaction the remote computer can access the audit trail files to roll the database back to a stable point free of corruption; see col. 3, lines 51-63); further, in column 7, lines 2-5, Bell discloses if communication line fails during the

transfer of flat files; in which flat files are saved on the remote computers and are resent by the remote computers; and

(c) "determining within the central site which of the files needs to be sent to each of the plurality of remote sites" (as a method for synchronizing the content of a central database stored on a central computer with the content of a remote database stored on a remote computer, processing the contents of the first database of change into a format suitable for transfer to the central database stored on the central computer; restarting the processing of the audit trail files to create a second database of change stored on the remote computer; and transferring the processed contents of the first database of change to the central database stored on the central computer; col. 7, lines 47-65).

Bell does not explicitly disclose steps of providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites. However, Gayman discloses provides a cyclic multicasting of an image file from a central data provider (server) to one or more client machines (workstations) over a computer network (see Gayman col. 11, line 60 to col. 12, line 4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Bell and Gayman with steps of providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites. Such a modification would allow the teachings of Bell and Gayman to improve the accuracy and the reliability of the method and system for the file synchronization between a central site and plurality of remotes, to provide a distributing system updates over a computer network (see Gayman col. 1, lines 33-34).

As per claims 2 and 11, Bell discloses "utilizes a file system synchronization (FSS) helper application" (as a database synchronization system capable of efficiently synchronizing central database with one or more remote databases during periods of heavy transaction activity on the remote databases and the central database; see col. 2, lines 7-10).

As per claims 3 and 12, Bell discloses "utilizes a file system synchronization remote site operation mechanism" (as a database synchronization system capable of efficient synchronizing a central database with one or more remote databases during periods of heavy transaction activity on the remote databases and on the central database; see col. 2, lines 7-10).

As per claims 4 and 13, Bell discloses "utilizes an automated central site operation mechanism" (as a database synchronization system capable of efficiently synchronizing a central database with one or more remote databases during periods of heavy transaction activity on the remote databases and on the central database; see col. 2, lines 7-10).

As per claims 5, 8, 9 and 14, Bell discloses "wherein the list of files comprises a loadlist" (see col. 6, lines 39-41).

As per claims 6 and 15, Bell discloses "wherein each of the files in the loadlist are date and time stamped" (as the fields of transaction table include the transaction identification number, start time, end time and completion code for each database transaction made to the databases associated with remote computers during the time period covered by the audit trail file processed by migratory application; see col. 5, lines 8-19).

As per claim 7, in addition to claim 1, Bell further discloses "a central site, the central site including a file system synchronization (FSS) helper application and an automated central site operations (ACSO) mechanism for transmitting the list of files" (as a database synchronization system capable of efficiently synchronizing a central database with one or more databases during periods of heavy transaction activity on the remote databases and on the central database; (see col. 2, lines 7-10); further, in column 4, lines 25-28, Bell discloses to maintain the synchronization of the central database in central computer, database of change of each of remote computers must be transmitted periodically to central computer; and

"at least one the remote site" (see fig. 1, col. 3, lines 16-19), "the at least one remote site including a file system synchronization remote operating mechanism (FSS RSO)" (as a database synchronization system capable of efficiently synchronizing a central database with one or more remote databases during of heavy transaction activity on the remote databases and on the central database; see col. 2, lines 7-10).

(10) Response to Argument

The Examiner will address the arguments in the order submitted by the appellants.

Argument:

Appellant respectfully submits page 7, last paragraph, that there can be nothing to teach or suggest a determination in the central site of which files are needed in the remote site.

Response:

Bell discloses a database synchronization system, a plurality of remotes database systems, wherein the central computer synchronizes with the data into databases stored in the storage devices (remote computers); see col. 44-51. Further, in column 2, lines 38-48, Bell discloses the task of creating files from the database of change distributed across available resources.

Furthermore, Gayman discloses a method for transferring file from a central server to client machines over a computer network; see col. 7, lines 9-14. Further, see column 8, lines 19-28, Gayman discloses the central server determines the transmission of file.

Argument:

Appellant respectfully submits, page 9, second paragraph, that Gayman does not combine with Bell in a manner that results in any teaching or suggestion of the recited step of providing a list of files to the plurality of remotes sites by the central site prior to a callback time of the remote sites.

Response:

In response to applicant's argument, page 9, second paragraph, that Gayman does not combine with Bell in a manner that results in any teaching or suggestion of the recited step of providing a list of files to the plurality of remotes sites by the central site prior to a callback time of the remote sites. The examiner recognizes that obviousness can only be established by combining or modifying the teachings

of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bell does not explicitly disclose providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites. However, Gayman discloses providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites (see Gayman col. 11, line 60 to col. 12, line 4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Bell by providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites as disclosed by Gayman (see Gayman col. 11, line 46 to col. 12, line 4). Such a modification would allow the method of Bell to improve the accuracy and the reliability of the method and system for the file synchronization between a central site and plurality of remotes, therefore, to provide a distributing system updates over a computer network (see Gayman col. 1, lines 33-34).

Argument:

Appellant still respectfully submits, page 10, first paragraph, that there is nothing to teach or suggest how these activities, which address data provision in wholly opposite direction consideration, could or would be combined to achieve the "provision/transmission of data from a central site prior to callback time of the remote sites", as recited by the Applicant.

Response:

In response to applicant's argument, page 10, first paragraph, that the Bell and Gayman references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., provision/transmission of data from a central site prior to callback time of the remote sites) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Argument:

Appellant respectfully submits, page 10, second paragraph, that Bell, even when taken with Gayman, fails to teach, show, or suggest the present invention as recited in independent claims 1 and 10.

Response:

In response to Appellant's argument, page 10, second paragraph, that Bell, even when taken with Gayman, fails to teach, show, or suggest the present invention as recited in independent claims 1 and 10. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bell does not explicitly disclose providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites. However, Gayman discloses providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites (see Gayman col. 11, line 60 to col. 12, line 4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Bell by providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites as disclosed by Gayman (see Gayman col. 11, line 46 to col. 12, line 4). Such a modification would allow the method of Bell to improve the accuracy and the reliability of the method and system for the file synchronization between a central site and plurality of remotes, therefore, to provide a distributing system updates over a computer network (see Gayman col. 1, lines 33-34).

Argument:

Page 10, last paragraph, Appellant's states that "Applicant fails to see how Bell teaches or suggests the recited central site that includes a mechanism for transmitting the list, as the Examiner has admitted that Bell does not disclose providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites.

Page 11, last paragraph, line 6 to page 11, line 4, Appellant stated that "For this and the foregoing reasons regarding Bell's and/or Gayman's inadequacies".

Response:

With respect to Appellant's argument, "Bell does not disclose providing a list of files by a central site." This is a mischaracterization of Examiner's statement. See the last Office Action, page 8, dated 01/26/05. The statement made by the Examiner is "Bell does not explicitly disclose steps of providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites." The allegation made by the Applicant(s) is incorrect. Furthermore, Bell does not explicitly disclose steps of providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites. However, Gayman providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites (see Gayman col. 11, line 60 to col. 12, line 4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the method of Bell by providing a list of files to the plurality of remote sites by the central site, prior to a callback time of the remote sites as disclosed by Gayman (see Gayman col. 4, lines 4-21 and Fig. 3). Such a modification would allow the teachings of Bell to improve the accuracy and the reliability of the method and system for the file synchronization between a central site and plurality of remotes, therefore, to provide a distributing system updates over a computer network (see Gayman col. 1, lines 33-34).

With respect to Appellant's argument, Bell further discloses "a central site, the central site including a file system synchronization (FSS) helper application and an automated central site operations (ACSO) mechanism for transmitting the list of files" (i.e., a database synchronization system capable of efficiently synchronizing a central database with one or more databases during periods of heavy transaction activity on the remote databases and on the central database; see col. 2, lines 7-10. Further, in column 4, lines 25-28, Bell discloses maintaining the synchronization of the central database in central computer, database of change of each of remote computers must be transmitted periodically to central computer.

"at least one the remote site" (see fig. 1, col. 3, lines 16-19), "the at least one remote site including a file system synchronization remote operating mechanism (FSS RSO)" (as a database synchronization system capable of efficiently synchronizing a central database with one or more remote databases during of heavy transaction activity on the remote databases and on the central database; see col. 2, lines 7-10). Thus, the arguments are persuasive.

It is noted that Bell discloses a database on a remote computer is corrupted during a database transaction the remote computer can access the audit trail files to roll the database back to a stable point free of corruption; see col. 3, lines 51-63. Further, in column 6, line 65 to col. 7, line 5, Bell discloses file transfer module waits for receipt of a success transfer from the central computer before purging copies of the flat files that have been transferred to central computer, if communication line fails during the transfer of flat files, in which flat files are saved on the remote computers and are resent by the remote computers. Bell discloses the claimed suggest limitations, reporting which of the files are missing by each of the plurality of remote sites to the central site. Thus, the arguments are not persuasive.

Furthermore, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

MPEP 2111: During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification" Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Prater*, 162 USPQ 541,550-51 (CCPA 1969). The court found that applicant was advocating ... the impermissible importation of subject matter from the specification into the claim. See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definition or otherwise that may be afforded by the written description contained in application's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In *re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

For the above reasons, it is believed that the rejections should be sustained.

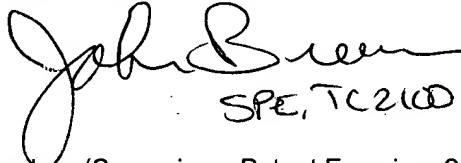
Respectfully submitted,

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December 21, 2006

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